

EXHIBIT 1

WEISBERG LAW
 Matthew B. Weisberg, Attorney ID No.: 85570
 7 South Morton Ave.
 Morton, PA 19070
 610-690-0801
 Fax: 610-690-0880
Attorney for Plaintiff

SCHAFKOPF LAW, LLC
*Filed and Attested by the
 Gary Schafkopf, Attorney ID No. 83362
 Office of Judicial Records*
 11 Bala Ave
 Bala Cynwyd, PA 19004
 610-664-5200 Ext 104
 Fax: 888-283-1334
Attorney for Plaintiff



DANIEL GEARHART
 728 W. Hamilton Street
 Allentown, PA 18101

: PHILADELPHIA COUNTY COURT
 : OF COMMON PLEAS

Plaintiff
 v.

: No.

AVERTEST, LLC
d/b/a AVERHEALTH
 512 W. Hamilton Street, Suite 105
 Allentown PA 18101

: JURY TRIAL OF TWELVE (12)
 : JURORS DEMANDED

and

AVERHEALTH
 512 W. Hamilton Street, Suite 105
 Allentown PA 18101

and

DEREK RUTH Individually & in his
 official capacity as Probation Officer for
 the Lehigh County Court Adult Probation
 & Parole Department
 455 Hamilton Street
 Allentown, PA 18101

and

**LEHIGH COUNTY COURT ADULT
 PROBATION &
 PAROLE DEPARTMENT**
 455 Hamilton Street
 Allentown, PA 18101

and

LEHIGH COUNTY :
455 Hamilton Street :
Allentown, PA 18101 :
:

Defendants

PRAECIPE TO ISSUE WRIT OF SUMMONS

TO THE PROTHONOTARY:

Kindly issue a writ of summons against the Defendants in the above-captioned matter.

Respectfully Submitted,

WEISBERG LAW
BY: */s/ Matthew Weisberg*
MATTHEW B. WEISBERG, ESQ.
DATED: 6-2-2020

SCHAFKOPF LAW, LLC
BY: */s/ Gary Schafkopf*
GARY SCHAFKOPF, ESQ.
DATED: 6-2-2020

Commonwealth of Pennsylvania
COUNTY OF PHILADELPHIA

Filed and Attested by the
Office of Judicial Records
10 JUN 2020 10:15 PM

COURT OF COMMON PLEAS



Term, 20

No. _____

Daniel Gearhart*Plaintiff*

vs.

Avertest LLC d/b/a Averhealth*Defendant*To¹Avertest LLC d/b/a Averhealth; Averhealth

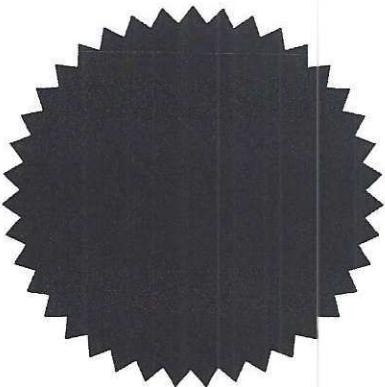
Derek Ruth; Lehigh County Court Adult Probation & Adult Parole Department

Lehigh County

Writ of Summons

You are notified that the Plaintiff²*Usted esta avisado que el demandante*Daniel Gearhart

Has (have) commenced an action against you.

Ha (han) iniciado una accion en contra suya.

ERIC FEDER
Director, Office of Judicial Records

By: _____

Date: _____



Court of Common Pleas

____ Term, 20 ____
No. _____

Daniel Gearhart
Plaintiff
vs.
Avertest LLC d/b/a Averhealth
Defendant

SUMMONS

WEISBERG LAW

Matthew B. Weisberg, Attorney ID No.: 855570
7 South Morton Ave.
Morton, PA 19070
610-690-0801
Fax: 610-690-0880

Attorney for Plaintiffs

DANIEL GEARHART

SCHAFFKOPF LAW, LLC

*Filed and Attested by the
Gary Schafkopf, Attorney ID No. 93362
Office of Judicial Records*

11 Bala Ave 10 JUL 2020 10:11 am

Bala Cynwyd, PA 19004

610-664-5200 Ext 104

Fax: 888-283-1334

Attorney for Plaintiffs



Plaintiffs

v.

AVERTEST LLC et al

Defendants

- : COURT OF COMMON PLEAS
- : PHILADELPHIA COUNTY
- : PENNSYLVANIA
- :
- :
- : No: 200600128
- :
- : JURY TRIAL OF TWELVE (12)
- : JURORS DEMANDED

PRAECIPE TO REISSUE WRIT OF SUMMONS

TO THE PROTHONOTARY:

Kindly reissue a writ of summons in the above-captioned matter.

Respectfully Submitted,

WEISBERG LAW

BY: /s/ Matthew Weisberg
MATTHEW B. WEISBERG, ESQ

DATED: 7/10/2020

SCHAFFKOPF LAW, LLC

BY: /s/Gary Schafkopf
GARY SCHAFFKOPF, ESQ.

DATED: 7/10/2020

WEISBERG LAW
Matthew B. Weisberg, Attorney ID No.: 85570
7 South Morton Ave.
Morton, PA 19070
610-690-0801
Fax: 610-690-0880
Attorney for Plaintiffs

DANIEL GEARHART

Plaintiffs

v.

AVERTEST LLC et al

Defendants

SCHAFKOPF LAW, LLC
Gary Schafkopf, Attorney ID No. 83362
11 Bala Ave
Bala Cynwyd, PA 19004
610-664-5200 Ext 104
Fax: 888-283-1334
Attorney for Plaintiffs

: COURT OF COMMON PLEAS
: PHILADELPHIA COUNTY
: PENNSYLVANIA
:
:
:
: No: 200600128
:
: JURY TRIAL OF TWELVE (12)
: JURORS DEMANDED

CERTIFICATE OF SERVICE

I, Gary Schafkopf, hereby certify that on July 10, 2020, a true and correct copy of the foregoing Praeclipe to Reissue Writ of Summons was served via regular and certified mail upon the following parties:

AVERTEST, LLC
d/b/a AVERHEALTH
512 W. Hamilton Street, Suite 105
Allentown PA 18101

and

AVERHEALTH
512 W. Hamilton Street, Suite 105
Allentown PA 18101

and

DEREK RUTH
455 Hamilton Street
Allentown, PA 18101

and

LEHIGH COUNTY COURT ADULT PROBATION &
PAROLE DEPARTMENT
455 Hamilton Street
Allentown, PA 18101

and

LEHIGH COUNTY
455 Hamilton Street
Allentown, PA 18101

DATED: 7/10/2020

Respectfully Submitted,
SCHAFKOPF LAW, LLC
BY: */s/Gary Schafkopf*
GARY SCHAFKOPF, ESQ.

EXHIBIT 2

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**
By: DANIEL E. DOLENTE, ESQUIRE
Identification No.: 316293
By: KEVIN J. MCHALE, ESQUIRE
Identification No.: 327355
2000 Market Street, 25th Floor
Philadelphia, Pa 19103
(215) 575-2787
(215) 575-2629
dedolente@Mdwcg.Com;
kjmchale@mdwcg.com

PROTHONOTARY
FILED AND ATTENDED BY THE
OFFICE OF JUDICIAL RECORDS
31 JUL 2020 03:10 pm
M. RUSSO

Attorneys For Defendants,
AVERTEST, LLC d/b/a AVERHEALTH
and **AVERHEALTH.**

DANIEL GEARHART

Plaintiff,

v.

AVERTEST, LLC d/b/a AVERHEALTH,
AVERHEALTH, DEREK RUTH, individually
and in his official capacity as Probation Officer
for the Lehigh County Court Adult Probation &
Parole Department ; LEHIGH COUNTY
COURT ADULT PROBATION & PAROLE
DEPARTMENT; LEHIGH COUNTY
Defendants.

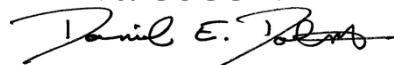
: COURT OF COMMON PLEAS FOR
: PHILADELPHIA COUNTY
:
: JUNE TERM, 2020
:
: NO: 00128
:
:
:
:
:

ENTRY OF APPEARANCE WITH DEMAND FOR JURY TRIAL

TO THE PROTHONOTARY:

Kindly enter the appearances of Daniel Dolente, Esquire, and Kevin J. McHale, Esquire, of Marshall Dennehey Warner Coleman & Goggin, as counsel for Defendants, **AVERTEST, LLC d/b/a AVERHEALTH and AVERHEALTH**, in the above-captioned matter. A demand for a jury of twelve (12) with two (2) alternates is hereby demanded.

**MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN**



BY:

DANIEL E. DOLENTE, ESQUIRE

Date: 7/31/20



BY: _____
KEVIN J. McHALE, ESQUIRE

Date: 7/31/20

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**
By: DANIEL E. DOLENTE, ESQUIRE
Identification No.: 316293
By: KEVIN J. MCHALE, ESQUIRE
Identification No.: 327355
2000 Market Street, 25th Floor
Philadelphia, Pa 19103
(215) 575-2787
(215) 575-2629
dedolente@Mdwcg.Com;
kjmchale@mdwcg.com

PROTHONOTARY
FILED IN THE
MUNICIPAL DISTRICT OF PENNSYLVANIA
*Filed and Attested by the
Office of Judicial Records
31 JUL 2020 03:12 pm
M. RUSSO*

*Attorneys For Defendants,
AVERTEST, LLC d/b/a AVERHEALTH
and AVERHEALTH.*

DANIEL GEARHART

Plaintiff,

v.

AVERTEST, LLC d/b/a AVERHEALTH,
AVERHEALTH, DEREK RUTH, individually
and in his official capacity as Probation Officer
for the Lehigh County Court Adult Probation &
Parole Department ; LEHIGH COUNTY
COURT ADULT PROBATION & PAROLE
DEPARTMENT; LEHIGH COUNTY
Defendants.

: COURT OF COMMON PLEAS FOR
: PHILADELPHIA COUNTY
:
: JUNE TERM, 2020
:
: NO: 00128
:
:
:
:
:

PRAECIPE FOR RULE TO FILE A COMPLAINT

TO THE PROTHONOTARY:

Issue rule on Plaintiff to file a Complaint in the above case within twenty (20) days after service of the rule or the Prothonotary/Clerk, upon praecipe, shall enter a judgment of non pros.

**MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN**

BY: _____

DANIEL E. DOLENTE, ESQUIRE

Date: 7/31/20

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

By: DANIEL E. DOLENTE, ESQUIRE

Identification No.: 316293

By: KEVIN J. MCHALE, ESQUIRE

Identification No.: 327355

2000 Market Street, 25th Floor

Philadelphia, Pa 19103

(215) 575-2787

(215) 575-2629

dedolente@Mdwcg.Com;

kjmchale@mdwcg.com

*Attorneys For Defendants,
AVERTEST, LLC d/b/a AVERHEALTH
and AVERHEALTH.*

DANIEL GEARHART

Plaintiff,

v.

AVERTEST, LLC d/b/a AVERHEALTH,
AVERHEALTH, DEREK RUTH, individually
and in his official capacity as Probation Officer
for the Lehigh County Court Adult Probation &
Parole Department ; LEHIGH COUNTY
COURT ADULT PROBATION & PAROLE
DEPARTMENT; LEHIGH COUNTY

Defendants.

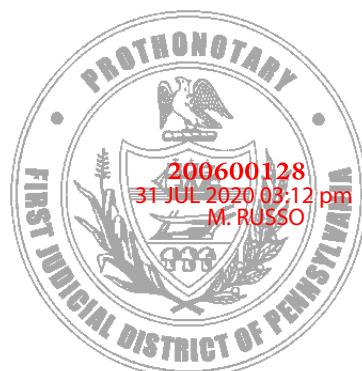
: COURT OF COMMON PLEAS FOR
: PHILADELPHIA COUNTY
:
: JUNE Term, 2020
:
: No: 00128
:
:
:
:

RULE TO FILE COMPLAINT

AND NOW, this _____ day of _____, 2020, a Rule is entered upon

Plaintiff pursuant to Pennsylvania Rule of Civil Procedure 1037 to file a Complaint in the above
matter within twenty (20) days from the service of this Rule or suffer Judgment of Non Pros.

PROTHONOTARY



Case ID: 200600128

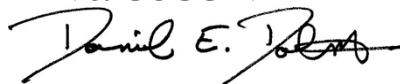
CERTIFICATE OF SERVICE

I, Daniel E. Dolente, Esquire, attorney for Defendants *AVERTEST, LLC d/b/a AVERHEALTH and AVERHEALTH* in connection with the above-captioned matter, do hereby certify that on the 31st day of July, 2020, a true and correct copy of Praeclipe for Rule to File a Complaint of Defendants, *AVERTEST, LLC d/b/a AVERHEALTH and AVERHEALTH*, was served upon the following individual(s) via notification of electronic filing:

Matthew B. Weisberg, Esquire
WEISBERG LAW
7 South Morton Avenue
Morton, PA 19070
Attorneys for Plaintiff

Gary Schafkopf, Esquire
SCHAFKOPF LAW, LLC
11 Bala Avenue
Bala Cynwyd, PA 19004
Attorneys for Plaintiff

**MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN**



BY: _____

Date: 07/31/2020

DANIEL E. DOLENTE, ESQUIRE
KEVIN J. MCHALE, ESQUIRE

EXHIBIT 3

WEISBERG LAW
 Matthew B. Weisberg, Attorney ID No.: 85570
 7 South Morton Ave.
 Morton, PA 19070
 610-690-0801
 Fax: 610-690-0880
Attorney for Plaintiff

SCHAFKOPF LAW, LLC
 Gary Schafkopf, Attorney ID No. 83362
 11 Bala Ave
 Bala Cynwyd, PA 19004
 610-664-5200 Ext 104
 Fax: 888-283-1334
Attorney for Plaintiff



DANIEL GEARHART
 728 W. Hamilton Street
 Allentown, PA 18101

Plaintiff

v.

AVERTEST, LLC
d/b/a AVERHEALTH
 512 W. Hamilton Street, Suite 105
 Allentown PA 18101

and

DEREK RUTH, Individually & in his official capacity as Probation Officer for the Lehigh County Court Adult Probation & Parole Department
 455 Hamilton Street
 Allentown, PA 18101

Defendants

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas ex-puestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede

<p>without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.</p> <p>YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.</p> <p>IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.</p> <p style="text-align: center;">Philadelphia Bar Association Lawyer Referral and Information Service One Reading Center Philadelphia, Pennsylvania 19107 (215) 238-6333 TTY (215) 451-6197</p>	<p>decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.</p> <p>USTED LE DEBE TOMAR ESTE PAPEL A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE A UN ABOGADO, VA A O TELEFONEA LA OFICINA EXPUSO ABAJO. ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMATION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NI NINGUN HONORARIO.</p> <p style="text-align: center;">Asociacion De Licenciados De Filadelfia Servicio De Referencia E Informacion Legal One Reading Center Filadelfia, Pennsylvania 19107 (215) 238-6333 TTY (215) 451-6197</p>
--	--

WEISBERG LAW
Matthew B. Weisberg, Attorney ID No.: 85570
7 South Morton Ave.
Morton, PA 19070
610-690-0801
Fax: 610-690-0880
Attorney for Plaintiff

SCHAFKOPF LAW, LLC
Gary Schafkopf, Attorney ID No. 83362
11 Bala Ave
Bala Cynwyd, PA 19004
610-664-5200 Ext 104
Fax: 888-283-1334
Attorney for Plaintiff

DANIEL GEARHART
728 W. Hamilton Street
Allentown, PA 18101

PHIADELPHIA COUNTY COURT OF
COMMON PLEAS

Plaintiff

No. 200600128

AVERTEST, LLC
d/b/a AVERHEALTH
512 W. Hamilton Street, Suite 105
Allentown PA 18101

JURY TRIAL OF TWELVE (12)
JURORS DEMANDED

and

**DEREK RUTH, Individually & in his
official capacity as Probation Officer for
the Lehigh County Court Adult Probation
& Parole Department**
455 Hamilton Street
Allentown, PA 18101

Defendants

PLAINTIFF'S CIVIL ACTION COMPLAINT

I. JURISDICTION & VENUE

1. Defendants knowingly subjected themselves to the jurisdiction of the courts in Philadelphia, Pennsylvania.
2. Jurisdiction and venue are proper in Philadelphia County, Pennsylvania.

II. PARTIES

3. Plaintiff, Daniel Gearhart, is an adult individual, residing at the above-captioned address.

4. Defendant, Avertest, LLC doing business as Averhealth (“Averhealth”) is a limited liability company existing by virtue of and operating under the laws of the Commonwealth of Pennsylvania, with a principal place of business at the above-captioned address. At all material times, Defendant, Averhealth has been involved, *inter alia*, in the business of providing biological sample testing for alcohol and drugs and possesses expertise therein, herein acting privately and under color of state law.
5. Defendant, Derek Ruth is an adult individual with a primary place of business at the above-captioned address. Defendant, Derek Ruth is named herein in his individually and officially capacity as an officer of the Lehigh County Court Adult Probation & Parole Department. At all material times, Defendant, Derek Ruth acted under the color of state law.

III. OPERATIVE FACTS

6. In January 2019, Plaintiff Daniel Gearhart was arrested for DUI.
7. In June 2019, Plaintiff entered into a plea agreement with for 3 years probation and 135 days home arrest, upon the submission of random drug or/and alcohol testing.
8. During his sentencing Plaintiff admitted due to his anxiety regarding the sentencing hearing he had smoked marijuana the previous night and that he had drugs in his system at the time of sentencing.
9. The District Attorney agreed to move forward with the plea agreement and advised Plaintiff that as long the test results showed a decrease in the marijuana in his system he would not be in violation of the agreement.
10. Defendant, Derek Ruth was assigned as Plaintiff’s Probation Officer. At all material times Ruth was responsible for appropriately overseeing Plaintiff’s compliance with Plaintiff’s sentencing and probation orders.

11. Plaintiff then submitted 8 urine samples in total which were all conducted at Defendant Averhealth.
12. The testing results of the first six (6) urine samples manifested that the level of marijuana was decreasing and there was no alcohol in his system.
13. Plaintiff provided his seventh (7) and eighth (8) sample as required.
14. Plaintiff received a call from Ruth after providing his seventh (7) urine sample and was informed that the level of marijuana had increased and to report to The Department of Parole and Probation.
15. Plaintiff reported to the Department of Parole and Probation and denied that he had smoked marijuana and requested the results of the eighth (8) sample he had provided.
16. Ruth advised that the results for the eighth (8) sample were not available and declined to wait for the results.
17. Plaintiff was immediately incarcerated.
18. Plaintiff remained incarcerated in jail for 90 days.
19. Upon being released Plaintiff's probation was revoked and he was placed under a parole.
20. After Defendant was released from the jail, the results of eighth (8th) sample manifested a low level of marijuana.
21. Defendant Averhealth intentionally used the less accurate methodology for testing urine for Marijuana unless the patient paid additional monies for a more accurate test, hence, it is believed that the high level of marijuana for plaintiff's 7th urine sample.
22. It is believed Defendant, Derek Ruth, knew that Defendant Averhealth used the less accurate methodology for testing Plaintiff's seventh (7) urine sample and the results of the seventh (7)

urine sample may be false as Defendant Derek Ruth saw or should have seen the discrepancies between the first six samples and the seventh (7) sample.

23. It is believed and therefore averred that, Ruth knew that urine testing for marijuana (i) had varying degrees of accuracy depending upon the methodology used; and (ii) had significant false result.
24. Given the knowledge that it is believed Ruth possessed concerning the accuracy of the urine test conducted by Averhealth and the inconsistent results between the first six samples and the seventh sample concerning Plaintiff, no reasonable officer, prior to knowing the result of eighth sample, would have determined probable cause existed.
25. As a result of the foregoing, Plaintiff was unable to be employed which caused his financial loss and emotional distress.
26. Ruth never informed Plaintiff that Averhealth used the less accurate methodology for urine testing for marijuana (unless the “patient” paid additional monies for the more accurate testing).
27. It was foreseeable to Averhealth that an individual, such as Plaintiff, could be falsely found in violation, and be severely punished, and wrongly damaged as a result.
28. Defendants’ knowingly failed to initially inform Plaintiff of the existence of the more accurate methodology for urine testing and/or the associated risk to Plaintiff. Defendant’s intentionally failed to have appropriate policies and/or practices in place to ensure same.

IV. CAUSES OF ACTION

COUNT I **Malicious Prosecution (State and Federal)**

29. Plaintiff incorporate by reference the foregoing paragraphs as if set forth herein.

30. Individually and in reliance on Co- Defendant Averhealth, Defendant, Derek Ruth initiated a criminal proceeding against Plaintiff, Daniel Gearhart for an alleged parole violation.
31. Individually and in reliance on Co- Defendant Averhealth, Defendant, Derek Ruth caused Plaintiff to be arrested and imprisoned, causing Plaintiff to suffer deprivation of liberty consistent with the concept of seizure.
32. Individually and in reliance on Co- Defendant Averhealth, Defendant, Derek Ruth knowingly initiated the criminal proceeding without probable cause. A reasonable officer in Defendant, Derek Ruth's position would have known that probable cause did not exist under the circumstances.
33. Individually and in reliance on Co- Defendant Averhealth, Defendant, Derek Ruth acted for a purpose other than bringing Plaintiff to justice and/or acted maliciously.
34. The actions taken by Defendants' described above were violations of Plaintiff's clearly established and well-settled constitutional and other legal rights.
35. Given the circumstances described herein, punitive damages are warranted due to Defendants' deliberate indifference to Plaintiff's clearly established and well-settled constitutional and other legal rights: pursuant to state law and 42 U.S.C. §1983, et seq, by the 4th, 8th, and 14th Amendments to the US Constitution.

WHEREFORE, Plaintiff, Daniel Gearhart, by and through their undersigned counsel, respectfully request this Honorable Court to enter judgment in their favor and against Defendants, individually, joint, and severally, in an amount in excess of \$50,000 including all compensatory, statutory, and punitive damages, attorneys fees and costs, and any such further relief as this Honorable Court deems necessary and just, including equitable relief.

COUNT II
False Arrest / False Imprisonment (State and Federal)

36. Plaintiffs incorporate by reference the foregoing paragraphs as if set forth herein.
37. Defendants', caused Plaintiff to be arrested and imprisoned, causing Plaintiff to suffer deprivation of liberty consistent with the concept of seizure.
38. The actions taken by Defendants' described above, were violations of Plaintiff's clearly established and well-settled constitutional and other legal rights.
39. Given the circumstances described herein, including, punitive damages are warranted due to Defendant, Derek Ruth's deliberate indifference to Plaintiff, Daniel Gearhart's clearly established and well-settled constitutional and other legal rights pursuant to state law and 42 U.S.C. §1983, et seq, by the 4th, 8th, and 14th Amendments to the US Constitution.

WHEREFORE, Plaintiff, Daniel Gearhart, by and through their undersigned counsel, respectfully request this Honorable Court to enter judgment in their favor and against Defendants, individually, joint, and severally, in an amount in excess of \$50,000 including all compensatory, statutory, and punitive damages, attorneys fees and costs, and any such further relief as this Honorable Court deems necessary and just, including equitable relief.

COUNT III
Negligence

40. Plaintiff incorporate by reference the foregoing paragraphs as if set forth herein.
41. At all material times, Defendant, Averhealth had a duty to act with reasonable caution, diligence, and care in selecting and using an appropriate methodology to process and/or complete the testing of Plaintiff's urine for the purpose of detecting level of marijuana on behalf of the Lehigh County Adult Probation & Parole Department.
42. At all material times, Defendant, Averhealth had a duty to appropriately inform Plaintiff of the various methodologies that it used for the testing of Plaintiff's urine for the purpose of

detecting the level of marijuana on behalf of the Lehigh County Adult Probation & Parole Department.

43. As described in detailed foregoing, Defendant, Averhealth breached the foregoing duties to Plaintiff to his financial and emotional detriment.
44. Given Defendant, Averhealth has been involved, *inter alia*, in the business of providing biological sample testing for alcohol and drugs and possesses expertise therein, Defendant, Averhealth's reckless failures and reckless disregard for the rights of its "patients", such as Plaintiff, punitive damages are warranted.

WHEREFORE, Plaintiff, Daniel Gearhart, by and through their undersigned counsel, respectfully request this Honorable Court to enter judgment in their favor and against Defendants, individually, joint, and severally, in an amount in excess of \$50,000 including all compensatory, statutory, and punitive damages, attorneys fees and costs, and any such further relief as this Honorable Court deems necessary and just, including equitable relief.

COUNT IV
Violations of Pennsylvania Unfair Trade Practices & Consumer Protection Law

45. Plaintiff incorporate by reference the foregoing paragraphs as if set forth herein.
46. At all times material, Defendant, Averhealth is a "person(s) engaged in trade or commerce as the term is defined by the Pennsylvania Unfair Trade Practices Act and Consumer Protection Law, 73 P.S. § 201-2, et seq. ("UTPCPL").
47. Defendant, Averhealth's aforementioned conduct constitutes an "unfair or deceptive practice" within the meaning of the UTPCPL.
48. At all times material, Defendant, Defendant, Averhealth has conducted itself in violation of the UTPCPL, 73 P.S. §201-1, et. seq.

49. The UTPCPL authorizes the Court in its discretion to award up to three (3) times (“treble”) the actual damages sustained for violations, as well as attorney’s fees, for which Plaintiff, Daniel Gearhart is entitled.

WHEREFORE, Plaintiff, Daniel Gearhart, by and through their undersigned counsel, respectfully request this Honorable Court to enter judgment in their favor and against Defendants, individually, joint, and severally, in an amount in excess of \$50,000 including all compensatory, statutory, and punitive damages, attorneys fees and costs, and any such further relief as this Honorable Court deems necessary and just, including equitable relief.

Respectfully Submitted,

WEISBERG LAW

/s/ Matthew B. Weisberg
Matthew B. Weisberg, Esquire
PA Attorney Id. No. 85570
7 South Morton Ave.
Morton, PA 19070
(610) 690-0801
(610) 690-0880 – Fax

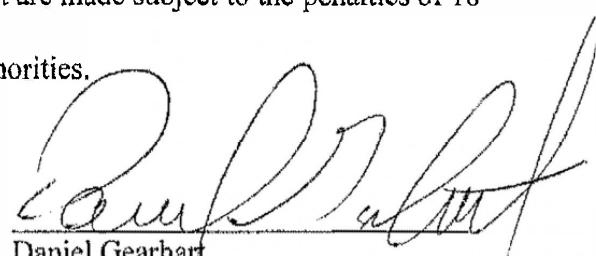
SCHAFKOPF LAW, LLC

/s/ Gary Schafkopf
Gary Schafkopf, Esquire
PA Attorney Id. No. 83362
11 Bala Ave.
Bala Cynwyd, PA 190440
(610) 664-5200 (ext. 104)
(888) 283- 1334 – Fax

VERIFICATION

I, Daniel Gearhart, state that I am the above-named Plaintiff in this action and that the foregoing is true and correct to the best of my knowledge, information and belief. I understand that the statements made in the foregoing Complaint are made subject to the penalties of 18 Pa.C.S. 4904 related to unsworn falsification to authorities.

Dated: 8/29/2020



Daniel Gearhart
Daniel Gearhart,
Plaintiff

WEISBERG LAW
Matthew B. Weisberg, Attorney ID No.: 85570
7 South Morton Ave.
Morton, PA 19070
610-690-0801
Fax: 610-690-0880
Attorney for Plaintiff

DANIEL GEARHART
728 W. Hamilton Street
Allentown, PA 18101

Plaintiff

v.

AVERTEST, LLC
d/b/a AVERHEALTH
512 W. Hamilton Street, Suite 105
Allentown PA 18101

and

**DEREK RUTH, Individually & in his
official capacity as Probation Officer for
the Lehigh County Court Adult Probation
& Parole Department**
455 Hamilton Street
Allentown, PA 18101

Defendants

SCHAFKOPF LAW, LLC
Gary Schafkopf, Attorney ID No. 83362
11 Bala Ave
Bala Cynwyd, PA 19004
610-664-5200 Ext 104
Fax: 888-283-1334
Attorney for Plaintiff

: PHIADELPHIA COUNTY COURT OF
: COMMON PLEAS

: No. 200600128

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: JURY TRIAL OF TWELVE (12)
: JURORS DEMANDED

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EXHIBIT 4



No Items in Cart [LOGOUT](#) kmchale

Civil Docket Report

A \$5 Convenience fee will be added to the transaction at checkout.

Case Description

Case ID: 200600128
Case Caption: GEARHART VS AVERTEST LLC ETAL
Filing Date: Tuesday , June 02nd, 2020
Court: MAJOR JURY-STANDARD
Location: City Hall
Jury: JURY
Case Type: MISC SUMMONS
Status: WAITING TO LIST CASE MGMT CONF

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case motions

No case motions were found.

Case Parties

Seq #	Assoc	Expn Date	Type	Name
1			ATTORNEY FOR PLAINTIFF	SCHAFKOPF, GARY
Address:	SCHAFKOPF LAW LLC 11 BALA AVENUE BALA CYNWYD PA 19004 (610)664-5200	Aliases:	<i>none</i>	
2	1		PLAINTIFF	GEARHART, DANIEL
Address:	728 W. HAMILTON STREET ALLENTOWN PA 18101	Aliases:	<i>none</i>	
3	10		DEFENDANT	AVERTEST LLC
Address:	512 W. HAMILTON STREET SUITE 105 ALLENTOWN PA 18101	Aliases:	AVERHEALTH	
4	10		DEFENDANT	AVERHEALTH
Address:	512 W. HAMILTON STREET SUITE 105 ALLENTOWN PA 18101	Aliases:	<i>none</i>	
5			DEFENDANT	RUTH, DEREK
Address:	455 HAMILTON STREET ALLENTOWN PA 18101	Aliases:	<i>none</i>	
6			DEFENDANT	LEHIGH COUNTY COURT ADULT PROBATION & PAROLE DEPARTMENT
Address:	455 HAMILTON STREET ALLENTOWN PA 18101	Aliases:	<i>none</i>	
7			DEFENDANT	LEHIGH COUNTY
Address:	455 HAMILTON STREET ALLENTOWN PA 18101	Aliases:	<i>none</i>	
8			TEAM LEADER	NEW, ARNOLD L

Address:	606 CITY HALL PHILADELPHIA PA 19107 (215)686-7260	Aliases:	<i>none</i>
9	1	ATTORNEY FOR PLAINTIFF	WEISBERG, MATTHEW B
Address:	WEISBERG LAW, PC 7 S MORTON AVE MORTON PA 19070 (610)690-0801	Aliases:	<i>none</i>
10		ATTORNEY FOR DEFENDANT	DOLENTE, DANIEL E
Address:	MARSHALL DENNEHEY WARNER COLE 2000 MARKET STREET 23RD FLOOR PHILADELPHIA PA 19103 (267)519-6574	Aliases:	<i>none</i>
11	10	ATTORNEY FOR DEFENDANT	MCHALE, KEVIN J
Address:	2000 MARKET STREET STE 2300 PHILADELPHIA PA 19103 (215)575-2620	Aliases:	<i>none</i>

Docket Entries

Filing Date/Time	Docket Type	Filing Party	Disposition Amount	Approval/Entry Date
02-JUN-2020 04:05 PM	ACTIVE CASE			03-JUN-2020 08:56 AM
Docket Entry:	E-Filing Number: 2006002775			
02-JUN-2020 04:05 PM	COMMENCEMENT CIVIL ACTION JURY	SCHAFKOPF, GARY		03-JUN-2020 08:56 AM
Documents:	Final Cover			
Docket Entry:	<i>none.</i>			
02-JUN-2020 04:05 PM	PRAE TO ISSUE WRIT OF SUMMONS	SCHAFKOPF, GARY		03-JUN-2020 08:56 AM
Documents:	Prae Writ of Summons - Gearhart v Avertest.pdf Writ of Summons- Gearhart v Avertest LLC et al.pdf			
Docket Entry:	PRAECIPE TO ISSUE WRIT OF SUMMONS FILED. WRIT OF SUMMONS ISSUED.			
02-JUN-2020 04:05 PM	JURY TRIAL PERFECTED	SCHAFKOPF, GARY		03-JUN-2020 08:56 AM
Docket Entry:	12 JURORS REQUESTED.			
02-JUN-2020 04:05 PM	WAITING TO LIST CASE MGMT CONF	SCHAFKOPF, GARY		03-JUN-2020 08:56 AM
Docket Entry:	<i>none.</i>			
03-JUN-2020 11:04 AM	ENTRY OF APPEARANCE-CO COUNSEL	WEISBERG, MATTHEW B		03-JUN-2020 11:07 AM
Documents:	Entry of Appearance.pdf			
Docket Entry:	ENTRY OF APPEARANCE OF MATTHEW B WEISBERG AS CO-COUNSEL FILED. (FILED ON BEHALF OF DANIEL GEARHART)			
10-JUL-2020 10:11 AM	PRAECIPE TO REISSUE SUMMONS	SCHAFKOPF, GARY		10-JUL-2020 10:12 AM

Documents:	Praecipe to Reissue Writ of Summons - Gearhart v Avertest et al.pdf Time Stamped Praecipe to Issue Summons - Gearhart v Avertest et al.pdf Time Stamped Writ of Summons - Gearhart v Avertest er al.pdf			
Docket Entry:	PREACIPE TO REISSUE WRIT OF SUMMONS FILED. WRIT REISSUED. (FILED ON BEHALF OF DANIEL GEARHART)			
31-JUL-2020 03:10 PM	ENTRY OF APPEARANCE	DOLENTE, DANIEL E		31-JUL-2020 03:31 PM
Documents:	Gearhart - EOA JD - DED KJM.pdf			
Docket Entry:	ENTRY OF APPEARANCE OF KEVIN J MCHALE AND DANIEL E DOLENTE FILED. (FILED ON BEHALF OF AVERHEALTH AND AVERTEST LLC)			
31-JUL-2020 03:10 PM	JURY TRIAL PERFECTED	DOLENTE, DANIEL E		31-JUL-2020 03:31 PM
Docket Entry:	12 JURORS REQUESTED.			
31-JUL-2020 03:12 PM	RULE TO FILE COMPLAINT	DOLENTE, DANIEL E		31-JUL-2020 03:32 PM
Documents:	Gearhart - Praecipe Rule to File Cmplaint.pdf			
Docket Entry:	PRAECIPE AND RULE FILED UPON DANIEL GEARHART TO FILE A COMPLAINT WITHIN TWENTY (20) DAYS OR SUFFER JUDGMENT OF NON PROS FILED. (FILED ON BEHALF OF AVERHEALTH AND AVERTEST LLC)			
20-AUG-2020 02:56 PM	COMPLAINT FILED NOTICE GIVEN	SCHAFKOPF, GARY		20-AUG-2020 02:56 PM
Documents:	Complaint - Gearheart v Averhealth et al 8-20-20.pdf			
Docket Entry:	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 FILED. (FILED ON BEHALF OF DANIEL GEARHART)			

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